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October 28, 2024

By ECF

The Honorable Cathy Seibel
United States District Judge
United States Courthouse
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: United States v. Frank Butselaar
22 Cr. 560 (CS)
Limited Bail Request

Dear Judge Seibel:

We write on behalf of our client Frank Butselaar to request that the Court grant bail for Mr. Butselaar for the limited period of time from Monday, November 4, 2024 to the commencement of deliberations, with Mr. Butselaar to be remanded and remain incarcerated at that point until a verdict is reached. We would propose that he be placed on electronic monitoring at a hotel room near the Courthouse where at least one member of the team will also be staying. We will accompany Mr. Butselaar to and from the hotel for each trial day and he will be limited only to the hotel and the courthouse.

Mr. Butselaar has never previously sought bail because he did not have a place to reside for the indefinite months of pre-trial proceedings. Given the relative certainty of the schedule at this point, we are comfortable securing a hotel for his bail. Mr. Butselaar does not pose a danger to the community. He is also not a flight risk – Mr. Butselaar is determined to proceed to trial and defend himself against the Government's public allegations. To the extent it is relevant to the Court's consideration, his passport, which is the only travel document that he has, is in the

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possession of counsel and we would be prepared to surrender it to the Government. Incarceration of Mr. Butselaar under these circumstances is not the least restrictive means under the Bail Reform Act to reasonably assure his presence at court and the safety of others and therefore bail is appropriate.

In addition to the legal propriety of Mr. Butselaar not being incarcerated at this time, there are also significant efficiencies by providing bail on these terms for the trial schedule for the Court and the parties. Among other things, this would alleviate the pressure on the Marshals from having to transport Mr. Butselaar to and from the Westchester facilities for trial each day and provide for his meals based on the trial schedule. It would also eliminate the problem of avoiding disclosure of Mr. Butselaar's detention to the jury – he would be able to dress prior to each court day and take comfort breaks during the trial day without the Marshals involvement. As discussed in our pre-trial conference, the parties all share the desire for this trial to conclude, if at all possible, before the Thanksgiving break. Minimizing these inefficiencies, even at the margin, may prove crucial in reaching that collective goal.

Although it is our problem and not the Government's concern, it would obviously greatly ease the burden on Mr. Butselaar and his legal team in terms of being fairly prepared for trial. As you are aware, the Government is continuing to produce Rule 16 and 3500 material in addition to the terra bytes of data already produced, which is difficult to review with Mr. Butselaar in the Westchester facility while simultaneously preparing for trial. Meeting with Mr. Butselaar at the end of each trial day is not possible. His release during the trial would greatly simplify that process and ensure that he receive a full and fair defense.

We have advised the Government of this request. The Government has responded that it is "not in a position to consent to the temporary bail package" we are requesting.

Thank you for Your Honor's consideration of this request. We are of course available for a bail application hearing, either telephonically or in person, should Your Honor deem it appropriate.

Respectfully submitted,



Kerry A. Lawrence

cc: All Counsel (via ECF)